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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES

In re application of:	:	Examining Group: 3652
O'Leary et al.	:	Examiner: Krizek
Serial No.: 10/022,658	:	Date: July 20, 2004
Filed: December 17, 2001	:	
For: *Scooter Lift with Load Detector and Load Lock*		

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO:
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Paul F. Wille
Signature Date

BRIEF ON APPEAL

Hon. Commissioner for Patents
Alexandria, Virginia 22313
SIR:

Enclosed are three copies of a Brief in support of an appeal from the rejection of claims 1–5 in the Office Action dated January 27, 2004, in the above-identified application.

This Brief is accompanied by the requisite fee set forth in Rule 17(c).

An oral hearing is waived.

Respectfully submitted,

Paul F. Wille

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Attorney for Appellants

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BRIEF ON APPEAL

I. Real Party in Interest

The real party in interest is Vantage Mobility International, LLC, Inc. as shown by an assignment dated December 17, 2001, and recorded at reel 012395, frame 0509.

II. Related Appeals and Interferences

None

III. Status of Claims

Claims 1–10 are pending in this application. Claims 1–5 stand rejected. Claims 6–10 stand allowed.

IV. Status of Amendments

All amendments have been entered.

V. Summary of Invention

Scooter lifts of the prior art typically sense the presence of a wheel, e.g. by depressing a pedal or by moving a small plate resiliently coupled to the platform supporting the scooter. The claimed invention relates to a scooter lift in which the entire platform is a load sensor. The platform is attached along one edge to a horizontal bar about which the platform can rotate from a vertical position to a

horizontal position and vice-versa. In the horizontal position, the platform is supported by one or more compression springs that counteract the torque of the platform about the horizontal bar. If a weight is placed anywhere on the platform, the platform rotates about the bar and further compresses the spring, opening an interlock that prevents the platform from being folded up as the platform is elevated.

In accordance with MPEP §1206, the following table relates the appealed claims to the specification as originally filed. The table is not exhaustive of all possible cross-references.

1. In an external lift for a scooter wherein the lift includes a post adapted to be attached to a vehicle and a rotating platform attached to the post, the improvement comprising:	
a load sensor actuated by rotation of the platform as a load is applied to said platform.	Page 3, lines 12–17;
2. The lift as set forth in claim 1 and further including:	
a lock mechanism for preventing the platform from rotating in a loaded and raised position.	Page 5, lines 26–28;
3. The lift as set forth in claim 1 and further including:	
a lock mechanism for preventing the platform from rotating in an unloaded and raised position.	Page 5, lines 29–30;
4. The lift as set forth in claim 1 and further including:	
a roller coupled to said platform and engaging a ramp on said post for supporting said platform while said platform is raised or lowered.	Page 6, lines 7–8;

5. The lift as set forth in claim 1 and further including a hold down having two, laterally displaced feet.	Page 6, lines 10–21; (this text was amended, and corresponding changes made in the drawings, to correct errors in the reference numbers; drawing changes were filed February 6, 2003, and May 30, 2003)

VI. Issues

Are claims 1–5 indefinite under 35 U.S.C. 112¶2?

Are claims 1–4 anticipated by Hamann et al. under 35 U.S.C. 102?

Are claims 1–5 anticipated by Bruno et al. under 35 U.S.C. 102?

VII. Grouping of Claims

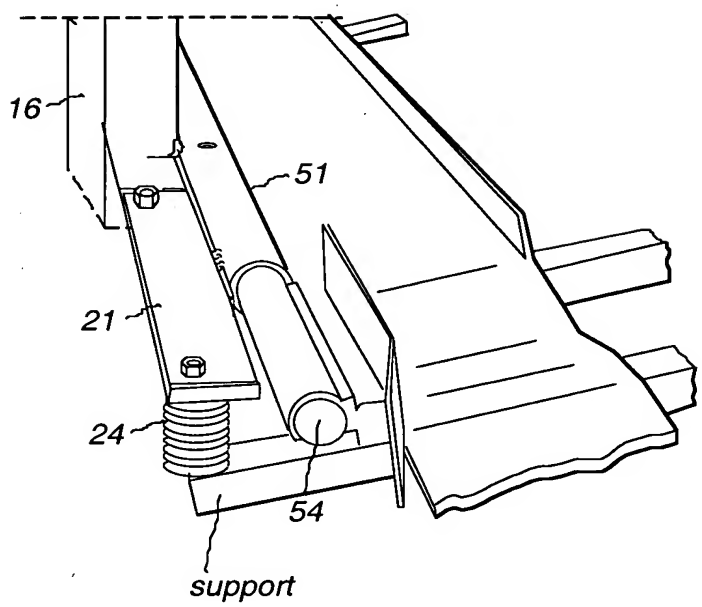
Under 35 U.S.C. 112, claims 1–5 stand or fall together.

The claims are directed to more than one aspect of the invention. The claims should be considered separately when considering patentability over the prior art because the claims relate to different aspects of the invention and, therefore, present different issues. Claim 1 relates to a load detector. Claim 2 relates to a lock for securing a loaded platform. Claim 3 relates to a lock for securing an unloaded platform. Claim 4 relates to a roller support. Claim 5 relates to a hold down for a scooter.

VIII. Argument

Claims 1–5 stand rejected as indefinite. The Examiner asserts that "The load sensor is actuated in response to the weight of the platform, not the rotation of the platform." The comment makes no sense. What good is a load sensor that is actuated by the weight of the platform? The platform would never fold up when not loaded.

The assertion is plainly contrary to appellants' disclosure and claims. The load sensor is like the jaws of a pair of pliers; page 4, line 13. This is best seen in FIG. 5, partially reproduced below.



The support and plate 21 are the jaws of the "pliers" clamping on spring 24. The platform is attached to the support and to bar 54 which rotates inside tube 51. Post 16, tube 51, and plate 21 are welded together and, therefore, relatively rigid. The platform and support move. Spring 24 counters the torque of the platform. A weight anywhere on the platform **rotates** the platform and further compresses spring 24. Further closing the jaws actuates the lockout mechanism, as described in connection with FIGS. 3 and 4. Specifically, lever 32 (FIG. 3) is moved out of position to engage pin 31 and the platform will not rotate to a vertical position as it is elevated.

It is respectfully submitted that the recitation "a load sensor actuated by rotation of the platform as a load is applied to said platform" clearly and succinctly describes the operation of this apparatus. Rotation of the platform under load, not the weight of the platform, causes the lockout mechanism to move lever 31.

The Examiner questions how a load is applied to the platform as the platform is rotated. The Examiner appears to be confusing cause and effect. Claim 1 recites that the platform rotates as a load is applied. Claim 1 does not recite that a load is applied as the platform rotates.

The Examiner suggests reciting "a load sensor detecting a load on the platform and preventing rotation of the platform." While an Examiner's suggestion is always appreciated and often followed, in this particular situation, it is not clear that such distinguishes over the prior art. The Peterson patent (5,011,361) discloses pedal 88 (FIG. 4B–4E) and the Ross patent (5,431,522) discloses plate 104 (FIG. 1). The load sensors of the prior art are incapable of sensing a load anywhere on the platform and none operate by rotation of the platform as a load is applied. Thus, the existing claim language is believed to recite these aspects of the invention clearly and to distinguish the claims from the prior art.

Claims 1–4 stand rejected as anticipated by Hamann et al. The Examiner alleges that the Hamann et al. patent discloses "load sensor 34" (FIG. 7). The Hamann et al. patent describes this element as "automatic latching apparatus." L–shaped members 30 rotate on the non-numbered shaft to engage the undercarriage of a scooter. Comparing FIG. 1 with FIG. 7 clearly discloses that the platform must be raised an appreciable distance for latch engaging mechanism 46 to engage face 58. It is respectfully submitted that the Hamann et al. patent does not disclose or suggest **any** kind of load sensing, let alone the claimed invention.

Claim **2** recites a lock mechanism "*for preventing the platform from rotating **in a loaded and raised position***" [emphasis added]. The Hamann et al. patent discloses in column 6 that "If a mobility device is present" [line 66], bolt 470 is "prevented from entering U-shaped opening 440" [column 7, lines 3–5]; i.e. prevented from locking the platform. Obviously, there is no anticipation. There is no locking of any kind.

With respect to claims **3**, the Examiner alleges that the Hamann et al. patent discloses "lock mechanism 300." Claim 3 recites "*for preventing the platform from rotating **in an unloaded and raised position***" [emphasis added]. The Hamann et al. patent discloses in column 6 that "If a mobility device is not present ... platform 12 will be locked in position relative to the lifting apparatus" [lines 56–65]. "Relative to the lifting apparatus" is not the same as "preventing from rotating." Obviously, there is no anticipation.

Claim **4** recites a roller coupled to the platform "for supporting said platform while said platform is raised or lowered.." In the Hamann et al. patent, roller 52

(FIG. 8) engages angled face 58 to actuate push rods for rotating L-shaped members 40 (FIG. 7). The L-shaped members are intended to engage the undercarriage of a "mobility device." There is no disclosure that roller 52 supports platform 12 in any way. As can be seen from the number of turns of cable 42 around shaft 36 and the non-numbered shaft (FIG. 7), L–shaped members 40 can make several complete revolutions. Thus, there is no anticipation.

Claims 1–5 were rejected as over Bruno et al. The Examiner alleges that the Bruno et al. patent discloses "load sensor 222" (FIG. 8). Element 222 is a spring that pushes detent follower 220 against detent ramp 104 [column 5, lines* 19–21 of the Bruno et al. patent].

Spring 222 is not "a load sensor actuated by rotation of the platform as a load is applied." As is clear from FIG. 5, spring 222 is not compressed until the platform has been raised a considerable distance. Thus, **elevation**, not rotation, actuates spring 222.

Element 222 is not called a load sensor in the Bruno et al. patent. The Examiner should accept the disclosure of the patent as written and not mischaracterize elements to suit a rejection.

The Bruno et al. patent discloses that "Spring 222 biases the detent follower 220 toward the center tube 201 or the outer tube 101." In other words, the spring is compressed axially along horizontal shaft 203 (FIG. 8). As shown by FIG. 5 in the Bruno et al. patent, the platform (in phantom line) rotates about an axis parallel to shaft 203 on support tabs 208. There is no connection by which spring 222 can be compressed by rotation of the platform.

It is respectfully submitted that there is no disclosure or suggestion of the invention in the Bruno et al. patent.

With respect to claim 2, he Examiner says "note lock mechanism 104, 200. Again, the prior art is mischaracterized. The mechanism controls whether or not the platform folds up when raised. The mechanism does not lock the platform. The Bruno et al. discloses the following concerning upward motion of a loaded platform.

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* by actual count. The line numbering is considerably out of alignment.

> When device 50 is operated with a scooter 70 on platform 500, the resistance to upward movement of the center tube unit 200 and platform 500, as measured by spring loaded follower 220 encountering lower node 104b of ramp 104, is not sufficient to permit movement of the inner tube unit 300 relative to the center tube unit 200. Therefore, the platform 500 remains flat [sic., "horizontal"] while it rises to the fully retracted position of the actuator 702.

The is no disclosure or suggestion in the Bruno et al. patent to lock the platform when raised for preventing the platform from rotating in a loaded and raised position.

With respect to claims 3, the Examiner says "note lock mechanism 104, 200. Again, the prior art is mischaracterized. The Bruno patent discloses the following concerning upward motion of an unloaded platform.

> "When the center tube unit 200 has been raised to the point where the detent follower 220 first contacts the bottom node 104b of the detent ramp 104, the resistance to upward movement of the center tube unit 200 will be greater than the force needed to raise and rotate the platform 500 about its pivot point 502 on the pivot plates 207 of the center tube unit 200.
>
> "During the bottom portion of the actuator stroke in either direction, the platform 500, inner tube unit 300 and center tube unit 200 move up or down in a linear manner, maintaining a constant relationship to one another. The platform 500 is in a horizontal position whether a scooter is present or not." [column 9, lines 14–26]

Note that there is no lock "for preventing the platform from rotating in an unloaded and raised position." For the first half of its travel, the platform is horizontal "whether a scooter is present or not." Thus, the cited portion relates to raising and lowering the platform, not a lock for when the platform is loaded.

With respect to claims 2 and 3, it is respectfully submitted that one of ordinary skill in the art would not consider a spring loaded roller and detent as a "lock." As clear from the quoted disclosure, the detent holds in one case and does not hold in the other. A "lock" holds in all cases.

With respect to claim 4, roller 221 in no way supports the platform. The roller is at the end of follower 220, which is mounted on a pivot. It is respectfully submitted that it is mechanically impossible for roller 221 to support platform 500

With respect to claim 5, the Examiner refers to "hold down 600." Bracket 605 has a shape that "is dictated by the type of scooter or other cargo being

transported" [column 7, lines 6–8]. That is, the bracket fits over the scooter. The ends of the bracket "will be in locking engagement with the floor of the scooter" [column 12, lines 3–4]. "Locking engagement" is unclear. In appellants' invention, feet rest on the scooter, they are not locked to it.

IX. Summary

It is respectfully submitted that the language of claims 1–5 succinctly and definitely recite novel characteristics of the invention and fully distinguish over the prior art. Neither patent applied in the final rejection discloses load sensing, yet the claims are rejected as anticipated.

X. Conclusion

In view of the foregoing discussion, it is respectfully submitted that the rejections of claims 1–5 are in error and should be reversed.

Respectfully submitted,

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a lock mechanism for preventing the platform from rotating in an unloaded and raised position.

4. The lift as set forth in claim 1 and further including:

a roller coupled to said platform and engaging a ramp on said post for supporting said platform while said platform is raised or lowered.

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